

STATE OF CONNECTICUT
DEPARTMENT OF CHILDREN AND FAMILIES
ADMINISTRATIVE HEARINGS UNIT
505 HUDSON STREET
HARTFORD, CT 06106

MEMORANDUM OF DECISION

FAIR HEARING

HEARING DATE: July 15, 2008

RE: M [REDACTED] (D.O.B. [REDACTED])

HEARING OFFICER: Kathleen Costello

PARTIES: M [REDACTED] Adolescent Client
Barbara O'Brien, Social Work Supervisor, DCF
Irvin Girard, Social Worker, DCF

WITNESSES: M [REDACTED]
Barbara O'Brien
Irvin Girard

REPRESENTATIVE: Elizabeth Borrino, Esq.

OBSERVER: Julie McKenna, Office of the Child Advocate

DECISION DATE: July 30, 2008

I. Introduction

A Fair Hearing was held on July 15, 2008, at the request of Attorney Elizabeth Borrino, on behalf of M [REDACTED], a young adult aggrieved by the proposed decision of the Department of Children and Families ("Department") to deny his request to attend the Indiana University of Pennsylvania ("IUP").

Based on the testimony and evidence presented at the hearing, the Department's proposed decision to deny M [REDACTED] request to attend IUP is reversed if he meets the specific conditions as set out in the Decision portion of this memorandum.

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The Department and Attorney Borrino agreed the only issue before this Hearing Officer was whether or not the Department was correct in denying M[REDACTED] request to attend IUP. The Department stated it would not deny M[REDACTED] admission into the Community Housing Assistance Program ("CHAP").

III. Documents Entered on the Record

- Exhibit #1 Request for Hearing, by Elisabeth Borrino, dated June 12, 2008.
- Exhibit #2 Notice of Fair Hearing, dated June 19, 2008
- Exhibit #3 Request for Rescheduled Hearing, dated June 26, 2008.
- Exhibit #4 Notice of Rescheduled Fair Hearing, dated June 30, 2008.
- Exhibit #5 Summary of Facts, dated July 14, 2008.
- Exhibit #6 Individual Service Plan-Review, dated August 22, 2007.
- Exhibit #7 Individual Service Plan-Review, dated November 21, 2007
- Exhibit #8 Individual Service Plan-Review, dated February 20, 2008.
- Exhibit #9 Letter by MaryLou Townley, dated July 14, 2008.
- Exhibit #10 Letter by Mark Truran, dated July 11, 2008.
- Exhibit #11 Letter by Heather Yesko, dated July 10, 2008.
- Exhibit #12 Letter by Juliana Stoughton, dated July 11, 2008.
- Exhibit #13 Letter by Karin Errera, dated July 11, 2008.
- Exhibit #14 Letter by Chad Weierstall, dated July 11, 2008.
- Exhibit #15 Letter by Jonathan Errigo, dated July 14, 2008
- Exhibit #16 Addendum to the Social Study, dated June 6, 2006.
- Exhibit #17 Study in Support of Motion to Maintain Commitment and Review of Permanency Plan, dated April 7, 2006.

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- Exhibit #18 Social Study, dated July 26, 2005.
- Exhibit #19 Petition: Neglected Uncared-For Dependent Child/Youth, dated June 13, 2008.
- Exhibit #20 Letter by Diane Samuels, dated July 15, 2008.
- Exhibit #21 Letter by Elizabeth Borrino, Esq., dated July 23, 2008.
- Exhibit #22 Individual Service Plan - Review, dated May 21, 2008.
- Exhibit #23 The Institute of Living, Hartford Hospital, Residents Contract - Residential/Supportive Living Programs, dated May 31, 2008.
- Exhibit #24 The Institute of Living, Hartford Hospital, Residential/Supportive Living Centers, Client Acknowledgement, dated May 31, 2008.
- Exhibit #25 Institute Health Care, Inc., Barnard House Basic Program Rules (undated).
- Exhibit #26 Institute Health Care, Inc., Barnard House Placement Agreement, dated May 31, 2008.
- Exhibit #27 The Institute of Living, Hartford Hospital, Residential/Supportive Living Programs Service Plan, dated May 31, 2008.

IV. Summary of Testimony

Social Worker Irvin Girard stated he became M█████ social worker in August of 2007. Mr. Girard stated he met M█████ for the first time in November of 2007 at George Junior, where M█████ had resided since June of 2006. At that time, they discussed transitional planning, and the fact that the Department planned for M█████ to return to Connecticut following his discharge from George Junior. Mr. Girard stated he understood M█████ was interested in attending the Culinary Arts program at the Indiana University of Pennsylvania ("IUP"), but stated the Department did not support this plan because M█████ has a pending immigration issue (has to reapply for his green card) and needs to maintain his residency in Connecticut. Also, Mr. Girard stated that although the Department believes M█████ could succeed academically at IUP, it feels he needs more supportive services than IUP can provide. Mr. Girard stated that the Department would support M█████ attending IUP after he successfully completes one year of school locally.

Continuing his testimony, Mr. Girard stated that in April of 2008, M█████ visited Connecticut and attended an intake interview at Barnard House. Mr. Girard stated that M█████ was accepted into Barnard House. Also, Mr. Girard stated that on the same day, M█████ toured the Connecticut Culinary Institute and was advised to complete their

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admission exam on-line. However, Mr. Girard stated that M[REDACTED] purposely failed the on-line examination.

Responding to cross-examination by Attorney Borrino, Mr. Girard acknowledged that M[REDACTED] did very well at George Junior, has been a model student and received a scholarship from the school. Mr. Girard also acknowledged that Ms. [REDACTED], M[REDACTED] counselor/parent, and Mr. [REDACTED], J[REDACTED] clinician, along with several other George Junior staff said they will continue to support M[REDACTED] while he attends IUP. Also, Mr. Girard acknowledged that Ms. [REDACTED] and staff from IUP know M[REDACTED] better than he does, and that they would know which college best suites him.

Continuing under cross-examination, Mr. Girard stated that George Junior told him they conducted an educational assessment on M[REDACTED]. Mr. Girard stated that he did not inquire about the assessment or ask George Junior for their recommendation regarding M[REDACTED]'s discharge planning. Mr. Girard also stated that he did not ask George Junior if they believed M[REDACTED] should stay in Pennsylvania to attend college or return to Connecticut; Mr. Girard acknowledged that information would have been important to know. Also, Mr. Girard confirmed that during a telephone conference call in May of 2008, all of the George Junior staff recommended that M[REDACTED] be allowed to stay in Pennsylvania and attend IUP. Mr. Girard acknowledged that the Department never intended to let M[REDACTED] stay in Pennsylvania, and therefore he never requested any financial documents from IUP. Mr. Girard stated at this time, M[REDACTED] cannot attend the Connecticut Culinary Institute, and he is not sure if M[REDACTED] was accepted at Manchester Community College. Lastly, Mr. Girard stated that he is in the process of submitting referrals to community service providers for M[REDACTED] and that no services are in place for M[REDACTED] at this time.

Social Work Supervisor Barbara O'Brien stated that the discharge plan for M[REDACTED] has always been for him to return to Connecticut following his discharge from George Junior. Ms. O'Brien stated she understands that George Junior staff would continue to be a support for M[REDACTED] if he resided in Pennsylvania, but stated she is not sure to what extent the support would be, and believes most of the contact would be by telephone. Ms. O'Brien acknowledged that M[REDACTED] did very well academically at George Junior, but stated she is concerned that he may have a hard time transitioning to college life without additional support. Ms. O'Brien stated that M[REDACTED] has the opportunity to attend Manchester Community College in their Culinary Arts Program, and that he may be able to re-apply for admission to the Connecticut Culinary Institute. Also, Ms. O'Brien stated if M[REDACTED] transitions to CHAP in Connecticut, versus Pennsylvania, he will be provided with case management services in addition to social work contact.

Responding to cross-examination by Attorney Borrino, Ms. O'Brien confirmed that the Department's plan was always to have M[REDACTED] return to Connecticut and they did not consider letting him remain in Pennsylvania following his graduation from George Junior. Ms. O'Brien confirmed that referrals to Our Piece of the Pie and mentoring had not been made

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prior to M█████ return to Connecticut, but believes that Mr. Girard has begun the referral process.

M█████ stated that he refers to Ms. ██████ as "mom", and that he often stayed with her on weekends, holidays and vacations. M█████ stated that with the exception of one sister, he does not have any family in Connecticut that he talks to, and does not have any friends in Connecticut that he trusts. M█████ stated that during the time he was residing at George Junior, Mr. Girard never discussed educational planning with him. M█████ stated that he applied to two colleges in Connecticut with the assistance of his biology teacher, but was not accepted by either college. M█████ stated that he has a strong interest in culinary arts, and in December of 2007, he applied to the Culinary Arts Program at IUP. M█████ stated that in January of 2008, he informed Mr. Girard that he was accepted into IUP and eager to attend. M█████ stated he arranged to share a dorm with another student from George Junior who is also attending IUP in the fall. M█████ stated that this other student is actually more like a brother to him than a friend.

Continuing his testimony, M█████ stated that he requested a telephone conference call with the Department in May of 2008 after Mr. Girard told him he could not attend IUP and had to return to Connecticut following his graduation from George Junior. M█████ stated that during the conference call, he was told by the Department if he did not return to Connecticut following graduation, the Department would stop his funding. M█████ stated he never received any documents from the Department informing him he had a right to a hearing on that decision. M█████ stated that he toured the Connecticut Culinary Institute with Mr. Girard and thought the program was a "joke". M█████ stated that if he attended the program, he would have to retake the OSHA training, even though he has already earned his Five Hour OSHA Certificate. M█████ stated that if he attended Manchester Community College, he would be enrolled in the Hotel Management program, not a culinary arts program. Lastly, M█████ stated that since being placed at Barnard House, he has had no programs or services in place and he sits around the apartment all day. M█████ explained that if he was still residing at George Junior, he would be working in the horse barn, participating in recreational activities, and would have started a Serve Safety college course.

Closing his testimony, M█████ stated he worked so hard at George Junior to achieve good grades. M█████ stated that during his senior year, he researched many colleges and believes that IUP is the right college for him. M█████ stated when he toured the IUP campus, staff and students were friendly. Also, M█████ stated that the IUP staff will assist students in transitioning into their program.

V. Findings of Facts and Conclusions of Law

1. M█████'s date of birth is ██████. At the time of hearing, M█████ was nineteen years old.

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2. On October 24, 2005, M[REDACTED] was committed to the care and custody of the Department. M[REDACTED] was placed in foster care.
3. On December 21, 2005, M[REDACTED] was arrested after assaulting a female peer. This was M[REDACTED] fifth arrest. M[REDACTED] was placed at Manson Youth Institute and subsequently transferred to the psychiatric ward after displaying suicidal ideations. M[REDACTED] remained at Manson Youth Correctional until June 22, 2006.
4. On June 22, 2006, M[REDACTED] was placed at George Junior Republic, a residential facility in Pennsylvania. M[REDACTED] was placed in a family oriented cottage with Counselor/Parents Bill and Diane [REDACTED]. While at George Junior, Mikhail received many services, including individual therapy and anger management.
5. During the course of his stay at George Junior, M[REDACTED] earned home passes and holiday passes. However, M[REDACTED] was unable to take advantage of these passes because he did not have any available family resources. Also, M[REDACTED] did not receive any visits from family or friends during the time he was at George Junior. As a result, M[REDACTED] usually stayed with the [REDACTED] on weekends, holidays and vacations.
6. On July 7, 2006, M[REDACTED] was deemed eligible for the Department of Mental Health and Addiction Services/ Young Adult Services.
7. On October 4, 2006, M[REDACTED] turned eighteen years old.
8. While residing at George Junior, M[REDACTED] maintained a job in the horse barn and received monetary compensation for his work. Also, M[REDACTED] participated in extracurricular activities, which included being an active member of Skills USA (a national vocational-technical school organization), a member of the school's Vocational-Technical Food Service Program, and managing the school's track and field team. Also, M[REDACTED] made the school's Honor Roll, received several cooking awards and prizes, completed a cookbook as his senior project, and passed the OSHA Five Hour Safety Certification examination.
9. In August of 2007, Mr. Girard became M[REDACTED] social worker.
10. In November of 2007, M[REDACTED] was seen for a psychiatric update. M[REDACTED] was diagnosed with Post Traumatic Stress Disorder, Major Depressive Disorder, Intermittent Explosive Disorder and Conduct Disorder (see Exhibit #7).
11. In November of 2007, M[REDACTED] met the criteria for discharge from George Junior (see Exhibit #7). At that time, the Department did not have an identified placement for M[REDACTED]. Mr. Girard met M[REDACTED] and told him that the Department planned to have him return to Connecticut following graduation from GJR.
12. In November of 2007, M[REDACTED] spoke to Ms. Samuels about his living situation. M[REDACTED] decided to stay at George Junior to complete high school and then apply to college in Pennsylvania.
13. In December of 2007, Ms. Yesko (M[REDACTED] teacher, Career Guidance Counselor and Senior Advisor) and Ms. Stoughton (M[REDACTED] Food Service Instructor) brought M[REDACTED] to the Indiana University of Pennsylvania to take the entrance examination for the Culinary Arts Program, where he could obtain a Bachelor's degree. A total of one hundred students attend the program and the school provides personal counseling, academic counseling, and study groups.

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14. Following the interview, M█████ was accepted into IUP for the fall of 2008. M█████ made arrangements to share a dormitory room with another student from George Junior who was also accepted into the program. M█████ informed the Department that he was accepted into IUP and was eager to attend. Also, M█████ completed his financial aid paperwork.
15. On February 20, 2008, George Junior completed an Individual Service Plan - Review on M█████ (see Exhibit #8). As part of the Summary and Recommendation, it states that the current recommendation is for M█████ to be discharged to Connecticut and placed in a transitional living program. Also it said that M█████ has been looking into attending IUP's culinary arts program.
16. In February of 2008, the Department made a referral to Barnard House, a Transitional Living Assistance Program, for M█████. An interview was scheduled for April 7, 2008. The Department arranged an interview for M█████ at the Connecticut Culinary Institute.
17. In March of 2008, the Department informed M█████ that it would not support his plan to attend IUP. The Department told M█████ that the plan was for him to return to Connecticut following his graduation from George Junior and to attend a local educational program.
18. On April 7, 2008, M█████ attended an intake interview at Barnard House. Following the interview, Mr. Girard brought M█████ to the Connecticut Culinary Institute. M█████ received an application and was advised to complete the admission examination on-line. M█████ did not feel that this program was a good match for him and purposely failed the on-line examination. Also on this day, M█████ attempted to visits his father. When M█████ arrived at his father's house, his father and half-sister were leaving, stating neither wanted to see M█████.
19. On April 29, 2008, Mr. Girard met with Ms. Daigle from the International Institute to discuss M█████ immigration issues, as M█████ has to re-apply for his green card.
20. On May 7, 2008, a telephone conference call was held upon M█████'s request. Those in attendance included M█████, Social Worker Irvin Girard, Social Work Supervisor Barbara O'Brien, Program Supervisor Sarah Thompson, Clinician Jonathan Errigo, Clinician Supervisor Michael Burbaker, and Parent/Counselor Diane S█████. M█████ again requested permission from the Department to attend the IUP. George Junior staffed supported M█████ in his desire to attend IUP. They stated that they would continue to provide support to M█████ if he attended IUP. However, the Department informed M█████ it would not support this plan and that he had to return to Connecticut upon graduation from George Junior. M█████ was told he could attend the Connecticut Culinary Institute and pursue an Associate's degree from that school or attend Manchester Community College and pursue an Associate's degree in Hotel Management. The Department told M█████ that if he successfully completed one year of school, it would support him in attending IUP. However, the Department did not ascertain if IUP would accept college credits from Manchester Community College.
21. On May 30, 2008, Mr. Girard attended M█████ graduation ceremony. The following day, Mr. Girard returned M█████ to Connecticut and placed him at Barnard House in Hartford. At Barnard House, M█████ has not received any services or therapy, nor had

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the opportunity to participate in group activities. The Department is in the process of making referrals, including mental health, for M[REDACTED].

22. Over the summer, M[REDACTED] wanted to stay at George Junior, where he could continue working in the horse barn and participate in summertime activities. Also, M[REDACTED] planned to take a course at Slippery Rock College over the summer interim. IUP continues to hold M[REDACTED] spot in their Culinary Arts Program and place in the dormitory.

VI. Decision

The Department's proposed decision to deny M[REDACTED] request to attend the Culinary Arts Program at the Indiana University of Pennsylvania beginning in the fall of 2008 is reversed, and the Department shall make immediate payment to the Indiana University of Pennsylvania, as the school year begins in August of 2008.

As part of this decision, M[REDACTED] is required to meet the following conditions:

1. M[REDACTED] must cooperate with service provider(s) (service provider(s) to be arranged through the Department) to ensure that he is receiving preventative aftercare services, counseling and any other issues identified by the treatment provider, which may include self-esteem issues and anger management.
2. M[REDACTED] must remain in contact with the Department (type and amount of contact to be determined by his social worker).
3. M[REDACTED] must provide documentation of enrollment/registration, on-campus housing and financial aid to the Department. Thereafter, M[REDACTED] must submit his transcript to the Department in a timely manner. M[REDACTED] must continue his full-time student status and remain in good standing at IUP.

If M[REDACTED] does not meet these conditions, the Department shall notify this Hearing Officer and request an opportunity to reopen the record, present additional testimony and seek to modify this decision.

VII. Applicable Laws/Regulations and Policy

Conn. Gen. Stat. §17a-11(g)

Notwithstanding any provision of sections 17a-1 to 17a-26, inclusive, and 17a-28 to 17a-49, inclusive, to the contrary, any person already under the care and supervision of the Commissioner of Children and Families who has passed such person's eighteenth birthday but has not yet reached such person's twenty-first birthday may be permitted to remain under the supervision of the commissioner, provided said commissioner, in said commissioner's discretion, determines that such person would benefit from further care and support from the Department of Children and Families.

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Regulations of Connecticut State Agencies § 17a-90-3(a). Right to a Fair Hearing.

Fair Hearing requirements apply to Department initiated actions to suspend, reduce or discontinue benefits to the child or youth receiving services from the Division of Children's and Protective Services, and who is in placement away from his own home, such as in foster care or independent living.

Department of Children and Families Policy Manual §42-5-2. Independent Living Program. Supportive Work, Education, and Transition Program (SWETP). Purpose.

The purpose of the Supportive Work Education (SWETP), Transition Program and Transitional Living Apartment Program (TLAP) is to prepare youth for adult living settings.

Department of Children and Families Policy Manual §42-5-2. Independent Living Program. Supportive Work, Education, and Transition Program (SWETP). Vocational Assessment, Educational Assessment.

SWETP -The program's Educational/Vocational Specialist is responsible for coordinating the resident's educational and vocational experiences. This position will be responsible for: interfacing with the school system; participating in IEPs, PPTs and other educational meetings; and developing individualized educational/vocational plans for each youth. This position will work in conjunction with all other staff at the program to maximize educational and vocational outcomes for each resident.

Department of Children and Families Policy Manual §42-5-2. Independent Living Program. Supportive Work, Education, and Transition Program (SWETP). Contract.

A written contract, signed by the youth and program staff, shall be developed with each youth, and it may include but shall not be limited to:

- *clarification of roles for the youth, program and DCF*
- *assignment of responsibilities and timeframes for the youth, program, and DCF*
- *establishment of expectations for the youth, program, and DCF*
- *goals which must be attainable*
- *a statement regarding action to be taken if the youth does not comply with the terms of the contract or program requirements.*

Department of Children and Families Policy Manual §42-5-3. Community Housing Assistance Program (CHAP) Vocational and College. Admission Criteria.

To be eligible for admission to the Community Housing Assistance Program (CHAP) youth shall:

- *be DCF committed (abuse, neglect, uncared for) at the time of placement into the program or at the youth's eighteenth (18th) birthday*
- *have obtained a high school diploma or a Graduated Equivalency Diploma (GED)*
- *have exhibited adequate social, behavioral, and life skills, per Adolescent Specialist assessment and case record*

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- have signed the DCF-779-Notice at Age of Majority form prior to youth's 18th birthday indicating their desire to continue receiving services
- have successfully completed a DCF-approved Life Skills Program

Note: Successful completion of the Life Skills Program does not entitle youth to CHAP admission.

- be enrolled, in good standing (per the standards of the institution) in full time educational or vocational-educational program, including Job Corp and/or Americorps.

Department of Children and Families Policy Manual §42-20-20. Post High School Education. Requirements for Financial Assistance.

In order to qualify for post high school financial assistance from the Department youth shall:

- demonstrate the desire to pursue post high school education
- if age eighteen (18) and over, the youth will voluntarily agree to continue to receive services from the Department and understand that services and funding from the Department may terminate upon reaching twenty-one (21) years of age

Cross-Reference: Policy 42-20-21, Continuation of Education Beyond Age Twenty-One

- apply/compete for appropriate grants and scholarships to offset costs

Note: The Department will not participate in providing financial assistance unless such efforts are reflected in the total funding request.

- contribute five hundred dollars (\$500.00) of educational costs per year (unless grants and scholarships are obtained for the full amount of educational costs)
- enroll in a full-time, accredited or licensed course and remain in good academic standing as defined by the federal financial aid standards
- provide documentation to the worker of
 - enrollment/registration
 - application for financial aid
 - grades/report cards

Note: Youth shall not be required to obtain loans or use savings/earnings for educational costs in excess of their five hundred dollars (\$500.00) contribution per year.

VIII. Rationale

Department Policy 42-20-20 states that the Department shall provide financial assistance to youth committed through their eighteenth birthday who demonstrate an interest in pursuing a post high school education. The policy also lists the eligibility requirements for post high school financial assistance. However, the policy does not speak to the issue of post high school financial assistance for out-of-state schools or colleges. The Department has a long established practice of allowing young adults to attend out-of-state schools or colleges.

The issue at hand is not whether or not M[REDACTED] meets the eligibility requirements for post high school financial assistance; he clearly does. In fact, the Department does not dispute

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this fact and is prepared to place M[REDACTED] into the Community Housing Assistance Program and fund his post high school education. The issue is that the Department is only willing to do this if M[REDACTED] attends a local college in Connecticut. However, M[REDACTED] does not want to live in Connecticut and has made this known to the Department since January of 2008 when he was accepted into IUP.

M[REDACTED] is at a crucial point in his life and he has the opportunity to flourish at something he is interested in and very good at. By allowing M[REDACTED] to attend IUP, he can continue to concentrate on his academics while being intensely involved in culinary arts. This is something he excels at, enjoys and can lead to a lucrative career.

The weight of the testimony and evidence supporting M[REDACTED] attendance at IUP is overwhelming. Clearly, everyone from George Junior that has been directly involved with M[REDACTED] believes that attending IUP is the best opportunity M[REDACTED] has for success. Even the Department acknowledged that it believes M[REDACTED] can succeed academically at IUP. However, the Department denied M[REDACTED] request to attend IUP without researching the school's program and supportive services it can provide.

The Culinary Arts Program at IUP is a relatively small program, with a total of one hundred students. It appears that M[REDACTED] will have access to personal counseling, academic counseling and study groups. Also, on-grounds housing for M[REDACTED] has already been arranged and it has been approved for him to share a dormitory with his best friend from George Junior.

In addition to the supportive services offered by IUP, Ms. Samuels plans to continue to support M[REDACTED]. Ms. Samuels has been M[REDACTED] parent-counselor for two years and lives only a few hours away from the IUP campus. Many other George Junior staff members, including Heather Yesko, M[REDACTED] former guidance counselor and teacher, and Jonathan Errigo, [REDACTED] former counselor, also plan to maintain regular contact with M[REDACTED].

Therefore, based upon the significant evidence supporting M[REDACTED] attendance at IUP, the Department's proposed decision to deny his attendance at IUP is reversed. However, with this said, the Department's concerns regarding M[REDACTED] ability to successfully transition to an out-of-state college are not disregarded. M[REDACTED] was incarcerated for six months prior to being placed at George Junior for two years. Now M[REDACTED] will be transitioning from a residential facility to a college campus where he will have a limited support system. For this reason, it is imperative that M[REDACTED] have access to counseling and any additional supports the Department deems appropriate to assist M[REDACTED] in making a successfully transition to IUP.

IV. Right to Appeal

The right to appeal this decision is governed by Conn. Gen. Stat. §4-183.

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Kathleen Costello, Hearing Officer

Copy:

Mikhail Young

Irvin Girard, Social Worker

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